

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PLAINTIFF'S
EXHIBIT

3

JEFFERY JUST,)
Plaintiff,)
v.) Case No. 4:18-CV-424 NAB
CITY OF ST. LOUIS, MISSOURI, et al.,)
Defendants.)

MEMORANDUM AND ORDER¹

This matter is before the Court on Plaintiff's Motion for Taxation of Costs of Service to be Assessed Against Defendants and for Attorney's Fees. [Doc. 10.] Defendants City of St. Louis, Missouri, Nellie Kuykendall, and Eric Henry did not file responses to Plaintiff's Motion and the time to do so has now passed. For the following reasons, the Court will grant Plaintiff's motion.

Federal Rule of Civil Procedure 4(d)(2) provides the following:

If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located in the United States, the court must impose on the defendant: (A) the expenses later incurred in making service; and (B) the reasonable expenses, including attorney's fees of any motion required to collect those service expenses.

The record indicates that the Defendants failed to return the waivers of service. Plaintiff has included three invoices documenting that Plaintiff incurred an expense of \$50.00 for each defendant and a total of \$150.00 to obtain personal service of the Defendants. (Pl.'s Exs. 1, 2, 3.) In an averred motion, Plaintiff's counsel James Schottel, Jr. states that he spent 3.4 hours

¹ The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). [Doc. 22.]

preparing the motion, memorandum in support of the motion, and exhibits and conducting legal research. Mr. Schottel seeks reimbursement at his hourly rate of \$400.00 per hour. *Id.* The Court finds the amount of time expended by counsel and the hourly rate to be reasonable. Because Defendants City of St. Louis, Missouri, Nellie Kuykendall, and Eric Henry failed to comply with Plaintiff's request for waiver of service of summons, and because they have not shown good cause for the failure, the Court concludes that Plaintiff is entitled to reimbursement of costs in the amount of \$150.00 and attorney's fees in the amount of \$1,360.00 for a total award of \$1,510.00.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Taxation of Costs of Service to be Assessed Against Defendants and for Attorney's Fees is **GRANTED**. [Doc. 10]

IT IS FURTHER ORDERED that Defendant City of St. Louis, Missouri is directed to pay \$503.34, and Defendants Nellie Kuykendall, and Eric Henry are each directed to pay Plaintiff \$503.33 each for the costs of service of summons and attorney's fees for a total award of \$1,510.00.

Dated this 17th day of July, 2018.

/s/ Nannette A. Baker
NANNETTE A. BAKER
UNITED STATES MAGISTRATE JUDGE